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FISCAL IMPACT STATEMENT

LS 7584

BILL NUMBER: HB 1918

NOTE PREPARED: Jan 23, 2003

BILL AMENDED:

SUBJECT: Sentencing of Offenders.

FIRST AUTHOR: Rep. Smith V

FIRST SPONSOR:

BILL STATUS: As Introduced

FUNDS AFFECTED: X **GENERAL**
DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: This bill has the following provisions:

(A) It permits a trial court to modify a sentence without the concurrence of the prosecuting attorney after the defendant has served 365 days in prison if the defendant is eligible for placement in a community corrections program.

(B) It repeals the habitual substance offender statute.

(C) It provides that a person may only be found to be a habitual offender if the person commits a violent felony. It specifies that a violent felony is a crime against the person, certain types of arson, burglary of a dwelling or while armed, resisting law enforcement while armed, escape while armed, or rioting while armed, and any other felony that results in serious bodily injury.

(D) It also makes conforming amendments.

Effective Date: July 1, 2003.

Explanation of State Expenditures: *Provision A:* Depending on the actions of the sentencing courts, this bill could reduce the number of offenders who are in Department of Correction (DOC) facilities and transfer them to community corrections programs.

Provision B potentially reduces the amount of time that certain offenders would remain in DOC facilities if the habitual substance offender sentencing statute is repealed.

DOC reports the number of offenders who received habitual substance offender enhancements in the following table.

Offenders Receiving Habitual Substance Offender Enhancements	
FY 2001	64
FY 2002	97

Under current law, a person who has two prior unrelated substance abuse convictions can be sentenced as a habitual substance offender if the person is convicted of a third offense. The additional term of imprisonment for habitual substance offenders is between three and eight years.

Provision C potentially reduces the amount of time that certain offenders would remain in DOC facilities if the habitual offender sentencing is restricted to violent felonies. The state may seek to have a person sentenced as a habitual substance offender for any substance offense by alleging, on a page separate from the rest of the charging instrument, that the person has accumulated two prior unrelated substance abuse offense convictions.

Under current law, offenders with two prior unrelated felony convictions are required to serve an additional sentence if they are convicted of a third prior unrelated felony. This third felony is called the underlying offense. The minimum sentence is not less than the presumptive sentence for the underlying offense. The maximum sentence is the lesser of either three times the presumptive sentence or 30 years. (IC 30-50-2-8(e)).

The following table shows the minimum and maximum enhanced sentences under current law.

Felony	Added Sentence for Third Felony Under Habitual Offender Statute	
	<u>Minimum Sentence</u>	<u>Maximum Enhanced Sentence</u>
Class D	1.5 years	4.5 years
Class C	4 years	12 years
Class B	10 years	30 years
Class A	30 years	30 years

Exempting these offenders potentially reduces the number of offenders who serve longer sentences. Of the offender population in DOC facilities as of January 10, 2003, 1,397 offenders received an habitual offender enhancement.

For FY 2001 and FY 2002, the number of offenders committed to DOC as habitual offenders and the number of offenders who are exclusively violent are shown below.

Offenders Committed As:	FY 2001	FY 2002
Habitual Offender	263	265
Violent Habitual Offender	96	96
Percent Violent	37%	36%

The average expenditure to house an adult offender was \$25,087 in FY 2001. Individual facility

expenditures ranged from \$18,520 to \$54,465. (This does not include the cost of new construction.) If offenders can be housed in existing facilities, the average cost for medical care, food, and clothing is approximately \$1,825 annually, or \$5 daily, per prisoner.

Explanation of State Revenues:

Explanation of Local Expenditures: *Provision A:* The 64 counties with community corrections programs could have more offenders transferred to them from the Department of Correction. Whether these transfers would occur would depend on decisions made by the courts which sentenced these offenders. The Department of Correction reported that community corrections programs received 359 offenders due to sentence modifications during the period between June 1 and December 31, 2001.

Provision B: Repealing this statute would reduce court time needed. Current law requires an additional hearing either by jury or by the judge before a person can be sentenced as an habitual substance offender.

Explanation of Local Revenues:

State Agencies Affected: Department of Correction.

Local Agencies Affected: Community Correction Agencies, Probation Departments, Sentencing Courts.

Information Sources: Department of Correction Planning Division.

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